

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement for CPT Code 97799-CPAP for dates of service May 30, 2001 through July 16, 2001.
- b. The request was received on April 23, 2002.

II. EXHIBITS

1. Requestor, Exhibit 1:
 - a. TWCC 60 and Letter Requesting Dispute Resolution
 - b. HCFA's
 - c. EOB
 - d. Medical Records
 - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit 2:
 - a. TWCC 60 and/or Response to a Request for Dispute Resolution
 - b. HCFA's
 - c. Audit summaries/EOB
 - d. Medical Records
 - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on June 12, 2002. Per Rule 133.307 (g) (4) or (5), the carrier representative signed for the copy on June 17, 2002. The response from the insurance carrier was received in the Division on June 25, 2002. Based on 133.307 (i) the insurance carrier's response is timely.
4. Notice of Medical Dispute is reflected as Exhibit #3 of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: The requestor states in the correspondence dated June 3, 2002 that... “ ___ position is that the fees paid for these services by the carrier were not ‘fair and reasonable.’ Evidence supporting our position is offered in the following 4 points... 1. Examples of what other insurance companies reimbursed LACPM for CPT 97799-CPAP during the service dates... The claims are credible evidence of our billed rate is ‘fair and reasonable’... 2. ___ is also enclosed a study it conducted in 2001. The study surveyed what insurance companies were paying for CPT 97799-CPAP... More of the insurance companies paid \$175 than any other single fee... 3. Recent decisions by TWCC’s Medical Dispute Resolution Officers also supports ___ position that \$175 per hour for CPT 97799 is a fair and reasonable fee... 4. ...___ assertion that its fees are fair and reasonable has been upheld in a recent SOAH decision... We believe this evidence supports our premise that the fees paid by the carrier are not ‘fair and reasonable.’...”
2. Respondent: The respondent states in the correspondence dated June 25, 2002 that... “Carrier paid DOS in question at a fair and reasonable rate for CPT Code 97799-CPAP after a review of other vendor reimbursements. Carrier considered and distinguished CARF and Non-CARF facilities as well as the services provided during a pain management program when it made its determination to reimburse the provider at \$115 per hour, and it consistently applies this pricing when determining reimbursement. ...”

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only dates of service eligible for review are those commencing on May 30, 2001 and extending through July 17, 2001.
2. The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT or Revenue CODE	BILLED	PAID	EOB Denial Code(s)	MARS (Maximum Allowable Reimbursement)	REFERENCE	RATIONALE:
05/30/01 07/03/01	97799CP AP	\$2,450.00 (7hrs/day x 2 days x \$175/hr)	\$1,610.00 (\$115 x 7 hrs = \$805 x 2 days)	M	DOP	MFG, MGR (II)(G) CPT descriptor TWCC Rule 408.021(a)(1-3)	Requestor has submitted daily progress notes to support the services rendered. Requestor has also submitted EOB's from other insurance carriers supporting payment of \$175.00 per hour; therefore, reimbursement in the amount of \$840.00 (\$2,450.00 - \$1,610.00) is recommended.

05/31/01 06/01/01 06/04/01 06/05/01 06/06/01 06/07/01 06/08/01 06/11/01 06/12/01 06/13/01 06/18/01 06/19/01 06/20/01 06/21/01 06/22/01 06/25/01 06/26/01 06/27/01 06/29/01 07/02/01 07/05/01 07/06/01 07/09/01 07/10/01 07/11/01 07/12/01 07/13/01 17/16/01	97799CP AP	\$39,200.00 (8 hrs/day x 28 days = 224 hrs x \$175/hr = \$39,200.00) Requestor charged \$1,400.00 per day.	\$25,760.00 8 hrs/day x 28 days = 224 hrs x \$115/hr = \$25,760.00) Respondent paid \$920.00 per day.	M	DOP	MFG, MGR (II)(G) CPT descriptor TWCC Rule 408.021(a)(1-3)	Requestor has submitted daily progress notes to support the services rendered. Requestor has also submitted EOB's from other insurance carriers supporting payment of \$175.00 per hour; therefore, reimbursement in the amount of \$13,440.00 (\$39,200.00 - \$25,760.00) is recommended.
Totals		\$41,650.00	\$27,370.00				The Requestor is entitled to reimbursement in the amount of \$14,280.00

The above Findings and Decision are hereby issued this 31st day of December 2002.

Marguerite Foster
Medical Dispute Resolution Officer
Medical Review Division

MF/mf

VI. ORDER

Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Medical Review Division hereby ORDERS the Respondent to remit \$14,280.00 plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this Order.

This Order is hereby issued this 31st day of December 2002.

David R. Martinez, Manager
Medical Dispute Resolution
Medical Review Division

DRM/mf